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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8
9 JOSE IRAEL ALVAREZ,
10 Petitioner,
11 vs.
12 DWIGHT NEVEN, et al.,
13 Respondents.

Case No. 3:15-cv-00363-RCJ-WGC
ORDER

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15 Before the court are petitioner's motion for leave to file a longer than normal federal habeas
16 corpus petition (#18) and petitioner's motion for leave to file an amended habeas corpus petition
17 (#20). Respondents do not oppose the latter motion, but note that they do not waive any procedural
18 defenses to the amended petition. The court will grant these motions.

19 Also before the court are petitioner's motion for reconsideration (#9) of this court's denial of
20 petitioner's motion for appointment of counsel. After reviewing the amended petition, the court
21 determines that appointment of counsel would be useful in this case, petitioner is unable to afford
22 counsel, and the court grants this motion. See 18 U.S.C. § 3006A(a)(2)(B).

23 Finally, respondents have filed a motion to dismiss (#12), petitioner has filed a motion for
24 leave of court to stay and abey his amended habeas corpus petition (#19), and respondents have filed
25 a motion for enlargement of time to respond to petitioner's motion (#21). These motions are moot
26 because the court is appointing counsel, who will have the opportunity to file a second amended
27 petition.

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1 IT IS THEREFORE ORDERED that petitioner's motion for leave to file a longer than
2 normal federal habeas corpus petition (#18) is **GRANTED**.

3 IT IS FURTHER ORDERED that petitioner's motion for leave to file an amended habeas
4 corpus petition (#20) is **GRANTED**. The clerk of the court shall file the proposed amended
5 petition.

6 IT IS FURTHER ORDERED that petitioner's motion for reconsideration (#9) is
7 **GRANTED**. The Federal Public Defender is provisionally appointed to represent petitioner.

8 IT IS FURTHER ORDERED that the Federal Public Defender shall have thirty (30) days
9 from the date that this order is entered to undertake direct representation of petitioner or to indicate
10 to the court his inability to represent petitioner in these proceedings. If the Federal Public Defender
11 does undertake representation of petitioner, he shall then have sixty (60) days to file an amended
12 petition for a writ of habeas corpus. If the Federal Public Defender is unable to represent petitioner,
13 then the court shall appoint alternate counsel.

14 IT IS FURTHER ORDERED that neither the foregoing deadline nor any extension thereof
15 signifies or will signify any implied finding of a basis for tolling during the time period established.
16 Petitioner at all times remains responsible for calculating the running of the federal limitation period
17 under 28 U.S.C. § 2244(d)(1) and timely asserting claims.

18 IT IS FURTHER ORDERED that the clerk shall add Adam Paul Laxalt, Attorney General
19 for the State of Nevada, as counsel for respondents.

20 IT IS FURTHER ORDERED that the clerk shall electronically serve both the Attorney
21 General of the State of Nevada and the Federal Public Defender a copy of the amended petition and
22 a copy of this order.

23 IT IS FURTHER ORDERED that respondents' counsel shall enter a notice of appearance
24 within twenty (20) days of entry of this order, but no further response shall be required from
25 respondents until further order of the court.

26 IT IS FURTHER ORDERED that any exhibits filed by the parties shall be filed with a
27 separate index of exhibits identifying the exhibits by number or letter. The CM/ECF attachments that
28 are filed further shall be identified by the number or numbers (or letter or letters) of the exhibits in

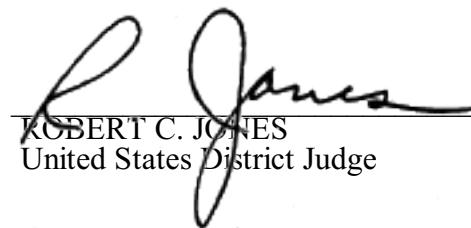
1 the attachment. The hard copy of any additional state court record exhibits shall be forwarded—for
2 this case—to the staff attorneys in Las Vegas.

3 IT IS FURTHER ORDERED that respondents' to dismiss (#12) is **DENIED** as moot.

4 IT IS FURTHER ORDERED that petitioner's motion for leave of court to stay and abey his
5 amended habeas corpus petition (#19) is **DENIED** as moot.

6 IT IS FURTHER ORDERED that respondents' motion for enlargement of time to respond
7 to petitioner's motion (#21) is **DENIED** as moot.

8 Dated: This 27th day of January, 2016.

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11 ROBERT C. JONES
12 United States District Judge
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